



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,797	10/19/2004	Toni Kopra	P3653US00	4278
30671 7590 09/03/2010 DITTHAVONG MORI & STEINER, P.C. 918 Prince Street Alexandria, VA 22314				
EXAMINER RUSTEMEYER, BRETT J				
ART UNIT		PAPER NUMBER		
2426				
NOTIFICATION DATE		DELIVERY MODE		
09/03/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@dcpatent.com

Office Action Summary

Application No.

10/511,797

Applicant(s)

KOPRA ET AL.

Examiner

BRETT RUSTEMEYER

Art Unit

2426

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2010.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-28 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 10 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SI/08)
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
5) ☐ Notice of Interval Patent Application
6) ☐ Other: _____
Paper No(s)/Mail Date: _____

DETAILED ACTION

Reopening of Prosecution

1. Applicant's response and arguments filed May 24, 2010 with respect to the 35 USC § 103(a) rejection outlined in the Office Action dated August 25, 2009 have been considered and are persuasive based upon the evidence presented.
2. Therefore, the FINALITY of the rejection of the Office Action dated August 25, 2009 has been WITHDRAWN.
3. However, upon further consideration, a new ground(s) of rejection is made over United States Patent Application Publication No. "US 2006/0288374 A1" to Ferris et al. (hereinafter "**Ferris**") in view of United States Patent Publication Number "US 2004/0014454 A1" to Burgess et al. (hereinafter "**Burgess**"). In view of the discovery of the above-cited art, PROSECUTION IS HEREBY REOPENED as set forth below.

Status of Claims

4. Claims 1-28 are pending.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in **Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966)**, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows: (*See MPEP Ch. 2141*)

- a. Determining the scope and contents of the prior art;
- b. Ascertaining the differences between the prior art and the claims in issue;
- c. Resolving the level of ordinary skill in the pertinent art; and
- d. Evaluating evidence of secondary considerations for indicating obviousness or nonobviousness.

6. Claims 1-4, 6-14, 16-22 and 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Ferris** in view **Burgess**.

Examiner's Note (EN): It appears **Ferris** and **Burgess** applies with the specific sections identified as follows. 13 ¶ applies.

Regarding claim 1,

Introduction to Ferris:

Ferris is directed to the display of advertisements, product and service offers, and other information (collectively, "display data") provided to a user of a radio receiver for further interaction (**Ferris**, Fig. 3, Abstract). According to one embodiment, broadcasters 402 disseminate content to broadcast receivers 405 in users' homes 416 (**Ferris**, ¶ 0048). The transmission mechanism may involve terrestrial radio-frequency broadcast, satellite radio-frequency broadcast, wired, or fiber optic cable transmission (**Ferris**, ¶ 0048). "A rolling 'play list' is compiled for each broadcast channel, containing the program associated data (PAD) display data records and their respective cue points. This information is fed, whether well or only very shortly in advance of the earliest cue point in the segment of the rolling list passed at that time, to a PAD scheduler 411 at a central processing station 420. Such a list may be

provided by any combination of the sponsors 401, the broadcasters 402, or by some third party 406 which annotates programmes, either as these programmes are broadcast or ahead of time” (Ferris, ¶ 0049).

A matching engine at the central processing station continuously compares input from the various broadcast channels with multimedia samples, and uses a commonly known algorithm to determine when a ‘match’ has occurred (Ferris, ¶ 0050). “When the next display message is due to be transmitted, as may be detected at the PAD scheduler 41 using either a polling or, preferably, an interrupt mechanism, it is retrieved from a PAD database 408, given a unique identification number (PADUID), and sent to a transmission gateway 413, which may be physically remote, where it is translated into the correct format to be sent over a radio transmission service 414” (Ferris, ¶ 0052). Preferred embodiments include: using the text message transmission protocols of a cellular network of paging transmitters; transmitting data using a radio sub carrier scheme; and utilizing the data transport mechanisms of the Digital Audio Broadcasting (DAB) system for transmitting information to the device (Ferris, ¶ 0052-55). The device 417 will display the incoming PAD display data to the user at the appropriate cue point, and may accept interaction from the user on the basis of the information so displayed.

Details of such interaction, where relevant, may be transmitted back central control station 420 together with the unique handset/user id (HUUID) and PADUID of the initial display data (Ferris, ¶ 0056) via a Radio Service Provider 415, which may or may not be the same as provider 414 (Ferris, ¶ 0057). Preferred return channels include: performing encoding and transmission by a two-way paging chipset; making use of bandwidth available within a digital cellular telephony system under some protocol (e.g., SMS of a GSM network); and sending

signals over an unlicensed radio data network (e.g., metropolitan packet-relay system) (Ferris, ¶ 0056-57). The user may interact with the PAD display data through the receiving apparatus to initiate a purchase sequence by pressing the 'BUY NOW!' button 9 (Ferris, FIGS. 1, 2A, 4, ¶ 0095). "If the user opts to buy, then the screen of FIG. 2C is shown, which contains a request to confirm the transaction 114, a selection of credit and/or debit cards 113 to choose from (chosen by pressing one of the side variable function buttons, 15 on FIG. 1), and the option to cancel the transaction 117. Selecting a credit card will bring up a 'successful order' screen, not shown here" (Ferris, FIG. 2C, ¶ 0096). As the user's name and address is held in the user database 410, the process of purchasing, or requesting the mail-out information, is greatly simplified (Ferris, ¶ 0062).

Ferris reads on:

A method of delivering an object relating to a broadcast media stream to a user terminal of a mobile radio system, the method comprising:

broadcasting the media stream by a broadcast system (Ferris, FIG. 3, ¶ 0048-49; EN: wherein "content" reads on the media stream, and the combination of broadcaster 402 and central processing station 420 reads on the broadcast system),

associating the object to the media stream in the broadcast system (Ferris, ¶ 0049, 0093; EN: wherein the advertised product or service represented by the PAD display data reads on the object, and the advertised product or service represented by the PAD display data is associated to the content through the play list),

delivering an object identification of the object and a widget from the broadcast system to at least one user terminal wirelessly (Ferris, FIGS. 2A, 3, ¶ 0031-32, 0052-56, 0079, 0093,

0095; EN: wherein the PAD display data reads on the *object identification*, and the serialized PAD software object as seen in FIG. 2A to display the text “BUY” reads on the *widget*. Incoming PAD display data or special control messages provided via Radio Service Provider 414 (i.e., a wireless channel) triggers a display routine for displaying screen 504 containing buy button 105; thereby enabling user to select a corresponding key associated with either buy button 105 or buy button 9 to initiate a purchase. In this sense, the widget is delivered *wirelessly* as claimed. Furthermore, all components of receiving apparatus 417, in particular the display screen, reads on *at least one user terminal*),

presenting the object identification and the widget in synchronization with the media stream in the user terminal (Ferris, FIG. 4, ¶ 0031-32, 0049, 0093; EN: The PAD display data and the displayed text “BUY” are displayed or presented at the respective cue point in the broadcast content by the receiving apparatus), and

sending, if a user requests the delivery of the object based on the object identification, a transaction signal with the object identification from the user terminal to a database through the mobile radio system by activating the widget (Ferris, FIG. 1, 2A, 3, ¶ 0031-32, 0056-57, 0062, 0095-96; EN: wherein sending is performed through the return channel, a purchase request reads on the *transaction signal*, the PADUID, a portion of the PAD display data, is sent in the purchase request, all database components of the Central Processing Station read on “*a database*”, and the Radio Service Provider 414/415 reads on “*the mobile radio system*”).

Ferris is silent on:

sending [...] a transaction signal [...] from the user terminal to a database of at least one object, and

delivering the object of the object identification from the database to the user terminal, which sent the request signal, through the mobile radio system.

Introduction to Burgess:

In analogous art related to problems associated with the enablement of a user request for advertised products and services through a radio network, Burgess provides evidence regarding processing and fulfillment of a user's request. In particular, the reference teaches of transmitting a user request message from a cellular tower 14 to a mobile switching center (MSC) 16 (Burgess, ¶ 0019). The MSC 16 analyzes the message and transmits the message to the appropriate SCP (Service Control Point) system 20 (Burgess, ¶ 0019-20). The SCP may utilize an Advertisement Code Database 24 to associate data codes within the request message with specific product information, such as advertiser provided content (Burgess, ¶ 0022). "In the event that the SCP 20 determines that there is product information associated with the data code in the dialed digits string, then the SCP 20 send the product information to the user that dialed the call through the content delivery system (CDS) 25 using a delivery technique indicated by the information in the user account associated with ... the request message" (Burgess, ¶ 0022).

According to one embodiment, "the delivery technique may be SMS (Short Message Service), in which case the product information stored in the Advertiser Code Database consists of a text message to be delivered back to the mobile phone on which the original call was place using the SMS protocol. Other examples of delivery techniques that may be used are WAP (Wireless Application Protocol) push, or a MMS (Multi-media Messaging Service) message, or an EMS (Enhanced Messaging Service) message", etc (Burgess, ¶ 0022).

Burgess reads on:

sending [...] a transaction signal [...] from the user terminal to a database of at least one object (Burgess, ¶ 0019-20, 0022), and
delivering the object of the object identification from the database to the user terminal, which sent the request signal, through the mobile radio system (Burgess, ¶ 0019-20, 0022).

Rationale:

Thus, it would have been obvious to one ordinarily skilled in the art, at the time of the invention, to apply to the technique of purchasing and delivering an advertised product or service as disclosed by **Burgess** to respectively improve the capabilities and necessary components of the Central Processing Station 420, Radio Service Providers 414-415, and receiving apparatus 417 of **Ferris** for the predictable result of providing a means for associating a user request with the requested product or service and delivering the user requested product or service to the user's receiving apparatus.

Regarding claim 2,

Ferris reads on:

providing the broadcast system with object identifications of the objects available in a database of an object provider - (Ferris, FIG. 3, ¶ 0048-49; EN: wherein PAD display data is provided by sponsor 401).

Regarding claim 3,

Ferris reads on:

creating the objects and the object identifications in the broadcast system and saving the objects in a database - (**Ferris**, FIG. 3, ¶ 0052, 0022; EN: wherein “*creating*” reads on the disclosed arranging for transmission of information over the service 414, and PAD Database 411 reads on “*a database*”).

Regarding claim 4,

Ferris reads on:

delivering the object identification from the broadcast system to at least one user terminal through the mobile radio system (**Ferris**, ¶ 0049, 0052-0056; EN: wherein the broadcaster provides the ‘play list’ containing the PAD display data records and their respective cue points to the Central Processing Station).

Regarding claim 6,

Ferris reads on:

sending the transaction signal from the user terminal directly to the database of the object provider through the mobile radio system (**Ferris**, ¶ 0056-57).

Regarding claim 7,

Ferris reads on:

sending first the transaction signal from the user terminal to a server serving the broadcast system through the mobile radio system, and sending a signal with the object identification from the server to the database of the object provider (Ferris, FIG. 3, ¶ 0056, 0059-60; EN: wherein the Interaction Processor reads on "a server", PADUID is portion of PAD display data which is sent with the signal, either the PAD database 408 or Vendor Database 409 read on "the database", and all components of the Central Processing Station, collectively, read on "the object provider").

Regarding claim 8,

Ferris reads on:

associating the object identification to the media stream such that the object identification is attached to a broadcasting timeline of the media stream, and delivering the object identification in accordance with the broadcasting timeline of the media stream (Ferris, ¶ 0049, 0056; EN: wherein the PAD display data is "attached" to and displayed in accordance with the 'play list')

Regarding claim 9,

Ferris reads on:

recording and processing the transfer of each object to the user terminals by means of a transaction processing device (Ferris, ¶ 0060-61; EN: wherein the interaction processor utilizes

the user database 410 to store users' transaction histories and both the PAD database 408 and Vendor Database 409 to process users' requests).

Regarding claim 10,

Ferris reads on:

identifying the format of the object identification and the object by means of the user terminal, the identifying revealing information, including the supporting application needed, additional rights pertaining to the object, forwarding limitations associated with the object, or any combination thereof (Ferris, ¶ 0067, 0073; EN: wherein the either cue point or the legitimacy read on “the format”),).

Regarding claim 11,

Ferris and **Burgess** read on the respective limitations of claim 1.

Ferris reads on:

a radio system including at least one base station (Ferris, ¶ 0057; EN: wherein a cellular tower or BTS is inherent of a cellular telephony system operating under the GSM protocol; thereby reading on “at least one base station”) ... the broadcast system having a connection to the radio system (Ferris, FIG. 3, ¶ 0049; EN: Gateways 412-413 read on the connection), and
the broadcast system being configured to associate at least one object identification to a broadcasting timeline of the broadcast media stream (Ferris, FIG. 3, ¶ 0049; EN: wherein the PAD display data is associated to the ‘play list’).

Regarding claims 12-14, and 16-20, please refer to the citations and remarks stated by the Examiner in response to claims 2-4, and 6-10, respectively.

Regarding claim 21, please refer to the citations and remarks stated by the Examiner in response to claim 1.

Regarding claims 22, 24, and 25, please refer to the citations and remarks stated by the Examiner in response to claims 4, 6, and 7, respectively.

Regarding claims 26-28,

Ferris and Burgess read on the respective limitations of claim 1.

Ferris reads on:

wherein the user terminal is configured to receive the widget before or during a piece of media stream {**Ferris**, FIG. 4; ¶ 0031-32, 0093; EN: wherein “*receive the widget*” reads on the PAD software object causing display screen of user terminal, previously cited of **Ferris** with respect to claim 1, to print data representing the displayed text “BUY” at a cue point during a targeted television program. According to a first interpretation, the displayed text “BUY” is “*received*” by the user through the user terminal during a corresponding piece of media stream, accordingly. In a second interpretation, the *corresponding piece of media stream* reads on any program broadcast over the medium/channel pair in which “The Tool Show” is broadcast. Thus, the displayed text “BUY” is printed on the display screen of the receiving apparatus before a subsequent program following “The Tool Show” reading on the “before” scenario}.

7. Claims 5, 15, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Ferris** in view of **Burgess**, further in view of ETS 300 401 – “Radio Broadcasting Systems; Digital Audio Broadcasting (DAB) to Mobile, Portable, and Fixed Receivers, 2nd Edition, (hereinafter “ETS 300 401”).

EN: It appears that **Ferris**, **Burgess**, and ETS 300 401 applies with the specific sections identified as follows. 13 ¶ applies.

Regarding claim 5,

Ferris reads on:

delivering the object identification from the broadcast system to at least one user terminal as an [Digital Audio Broadcasting (DAB) broadcast] (Ferris, ¶ 0055; EN: wherein the DAB system is used to transmit information to the device as defined by ETS 300 401 – “Radio Broadcasting Systems; Digital Audio Broadcasting (DAB) to Mobile, Portable, and Fixed Receivers).”

Ferris is silent on (in *italics*):

delivering the object identification from the broadcast system to at least one user terminal as RDS broadcast.

ETS 300 401 reads on (in *italics*):

delivering [data] [...] as an RDS broadcast (ETS 300 401, May 1997, Second Edition, Page 11, Section 2, [5], Page 18, Section 3.2, Line 39, Page 50, Section 6.3.1; EN: wherein data transport mechanisms used in an RDS broadcast; See Country Id and EC}, & Page 100, Section 8.1.4; EN: PNum)).

Rationale:

Because both **Ferris** and **ETS 300 401** disclose methods for wireless data transmission mechanisms, it have been obvious to one skilled in the art to substitute one method for the other to achieve the predictable result of conforming to the RDS broadcast standard.

Regarding claims 15 and 23, please refer to the citations and remarks stated by the Examiner in response to claim 5.

Response to Arguments

8. Applicant's amendment and remarks pertaining to the objection of claim 11 have been fully considered and are persuasive. The objection of claim 11 is herein removed.
9. Applicant's arguments and remarks documented in Applicant's Response pertaining to the 35 U.S.C. § 103(a) rejections have been considered but are moot in view of the new ground(s) of rejection.

Applicants' Remarks:

"In the Office Action of August 25, 2009, the Examiner referred to *Ferris*, FIG. 1, 2A, 3 and 4, and paragraphs [0049], [0056]-[0057], [0062], [0093], and [0095]-[0096], asserting that *Ferris* teaches the widget of the claimed invention, by equating the display data of *Ferris* to the widget of the claimed invention. Appellants strenuously disagree.

Ferris teaches providing to the users of broadcast receivers economic display of advertisements, product and service offers, and other information (collectively, "display data") (see paragraph [0026] of *Ferris*). *Ferris* further teaches displaying a PAD display data to the user at an appropriate cue point, wherein the cue point is the point in time of activation. However, the display data of *Ferris* cannot be equated to the widget of the claimed invention. As disclosed in *Ferris*, the display data is data for displaying advertisements, product and service offers, and other information. The display data is shown in the LCD display 14 and controls 13 and 15 may be used to invoke options shown on the LCD display 14. Thus, the display data may be text data with information about cue points, whereas a widget is a software piece used to display information. [Point 1] The display data in *Ferris* is not a widget that can be activated based on user selection, but rather a data provided to the user device so that the data can be displayed. Hence, *Ferris* does not teach or suggest the widget of the claimed invention. [Point 2] Further, the display data in *Ferris* is not delivered from the broadcasters 402, whereas

the widget in the claimed invention is delivered from the broadcast system. Therefore, the source of the widget in the claimed invention is different from the source of the display data in *Ferris*.

Additionally, in the Office Action of August 25, 2009, the Examiner equates the PADUID of *Ferris* to object identification recited in the claims (see pages 5-6 of the Office Action). As described in *Ferris*, PAD is Programme Associated Data (see paragraph [0012]) and PADUID is PAD unique identification number (see paragraph [0052]). Thus, *Ferris*'s PADUID is a unique identification number to identify Programme Associated Data, and is transmitted with the PAD for proper identification of the PAD. In particular, PADUID is utilized, for example, to identify PAD to synchronize the PAD items for content, when the cue-up time is changed after the transmission of the PAD (see paragraph [0050], [0079]). By contrast, object identification recited in the present claims is used to identify an object such that the object of the object identification can be delivered from the database to the user terminal. The Examiner erroneously equates an advertised product or service to the object of the claimed invention alleging that object is disclosed by *Ferris* (See, page 5 line 17 of the Office Action). **[Point 3] However, PADUID does not identify the advertised product or service, but rather identifies the Programme Associated Data, which may include data related to the advertised product or service. Therefore, *Ferris*'s PADUID cannot be equated to the object identification of the claimed invention.**

Burgess has not been relied upon, and fails, to cure the above-argued deficiencies of *Ferris*. Accordingly, even if the applied references are combined as proposed by the Examiner, and Appellants do not agree that the requisite realistic motivation has been established, the claimed inventions would not result. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044 (Fed. Cir. 1988). Appellants therefore respectfully solicit the Honorable Board to reverse the Examiner's rejection of claims 1 through 4, 6 through 14, 16 through 22, and 24 through 28 under 35 U.S.C. §103(a).

[...]

Claims 5, 15, and 21 depend from independent claims 1, 11, and 23, respectively. Appellants incorporate herein the arguments previously advanced in traversing the imposed rejection of claims 1, 11, and 21 under 35 U.S.C. § 103(a) for obviousness predicated upon *Ferris* in view of *Burgess*. The additional reference to *ETS 300 401* does not cure the previously argued deficiencies in the attempted combination of *Ferris* and *Burgess*. Indeed, the Examiner cited *ETS 300 401* for an alleged teaching of an RDS broadcast. However, *ETS 300 401* does not disclose "delivering an object identification of the object and a widget wirelessly from the broadcast system to at least one user terminal, presenting the object identification and the widget in synchronization with the media stream in the user terminal," and "sending ... a transaction signal with the object identification from the user terminal to a database having at least one object through the mobile radio system by activating the widget," as recited in independent claim 1, and similarly recited in independent claims 11 and 21. **[Point 4] Accordingly, even if the applied references are combined as proposed by the Examiner, and Appellants do not agree that the requisite basis to support the asserted motivation has been established, the claimed invention would not result. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, *supra*.**

Appellants therefore respectfully solicit the Honorable Board to reverse the Examiner's rejection of claims 5, 15, and 23 under 35 U.S.C. §103(a)."

Examiner's Response:

Point 1: Ferris discloses “*the widget*.”

The claimed limitation “*a widget*” was not been defined by the Applicants to include the features of being software as argued. Even if the *widget* were claimed to be software, the serialized PAD software object as seen in FIG. 2A to display the text “BUY” would still read on the *widget*. Incoming PAD display data or special control messages provided via Radio Service Provider 414 (i.e., a wireless channel) triggers a display routine for displaying screen 504 containing buy button 105; thereby enabling user to select a corresponding key associated with either buy button 105 or buy button 9 to initiate a purchase.” See **Ferris**, FIGS. 2A, 3, ¶ 0031, 0052-56, 0079, 0093, 0095.

Point 2: Ferris Discloses the PAD Display Data and Widget are Delivered from “*the broadcast system*”

In the present rejection, the combination of broadcaster 402 and central processing station 420 read on the *broadcast system*. See **Ferris**, FIG. 3, ¶ 0048-49. Accordingly, the PAD display data and the serialized PAD software object as seen in FIG. 2A to display the text “BUY” are herein delivered from *the broadcast system*. See **Ferris**, FIGS. 2A, 3, ¶ 0031-32, 0052-56, 0079, 0093, 0095.

Point 3: The PADUID Does Identify “*the object*” (i.e., the advertised product or service)

In contrast with the Applicants' contention, PADUID is a component of the display data, and is used in **Ferris** to refer to one or more messages displayed to the user. See **Ferris**, ¶ 0052, 0054, 0056. For example, when the next display message is due to be transmitted [...] it is given

a unique identification number (PADUID). See **Ferris**, FIGS. 1, 4, ¶ 0052. The one or more are messages displayed to the user advertise a product or service, and process a request for a selected product or service. See **Ferris**, FIGS. 1, 4, ¶ 0052, 0059, 0079. Therefore, the PADIUD identifies a message displayed to a user which advertises a product or service and user selected product or service.

Point 4: The Applied References as Combined in the Instant Office Action are Proper

Applicants' allegations reference Points 1-3, as addressed herein, and provide no further basis supporting their claim.

Examination Considerations

10. The claims and only the claims form the metes and bounds of the invention. "Office personnel are to give the claims their broadest reasonable interpretation in light of the supporting disclosure." *In re Morris*, 127 F.3d 1048, 1054-1055, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997). "Limitations appearing in the specification but not recited in the claim are not read into the claim." *In re Prater*, 415 F.2d, 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969) (MPEP p 2100-8, C 2: L 45-48; p 2100-9, C 1: L 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

11. Examiner's Notes are provided with the cited references to prior art to assist the Applicant(s) to better understand the nature of the prior art, application of such prior art and, as

appropriate, to further indicate other prior art which may be applied in future Office actions. Such comments are entirely consistent with the intent and spirit of compact prosecution. However, and unless otherwise stated, the Examiner's Notes are not prior art, but a link to prior art that one of ordinary skill in the art would find inherently appropriate.

12. Unless otherwise annotated, Examiner's statements are to be interpreted in reference to that of one of ordinary skill in the art. Statements made in reference to the condition of the disclosure constitute, on the face of it, the basis and such would be obvious to one of ordinary skill in the art, establishing thereby an inherent prima facie statement.

13. Examiner's Opinion: ¶ 10-12 apply. The Examiner has full latitude to interpret each claim in the broadest reasonable sense.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to Applicants' disclosure:

- a. Darbee et al. (U.S. Patent No. "US 6,278,499 B1")
- b. Darbee et al. (U.S. Patent Application "US 2002/0184626 A1")

15. Claims 1-28 are rejected.

Contact

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brett Rustemeyer whose telephone number is (571) 270-1849. The examiner can normally be reached on Monday - Friday 9:00 a.m.-5:30 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hirl can be reached on (571) 272-3685. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BR/
Examiner - Art Unit 2426
August 27, 2010

/Joseph P. Hirl/
Supervisory Patent Examiner, Art Unit 2426
August 28, 2010